

## REMARKS

Before turning to the substantive aspects of the Office Action, Applicants would like to take this opportunity to request that the Examiner acknowledge the claim for foreign priority under 35 U.S.C. § 119 based on the German priority application DE 102 40 359.7 filed on September 2, 2002, and confirm that the certified copy of the priority document filed on February 28, 2005 has been received.

Claims 1-22 are pending in this application. The Examiner has issued a species election requirement in this case. The Examiner, finding independent claim 1 to be generic, contends that the claims are readable on various allegedly patentably distinct species of the claimed invention, namely:

- Species I directed to the embodiment of the present invention as illustrated in Figure 1;
- Species II directed to the embodiment of the present invention as illustrated in Figure 6;
- Species III directed to the embodiment of the present invention as illustrated in Figure 7;
- Species IV directed to the embodiment of the present invention as illustrated in Figure 8; and
- Species V directed to the embodiment of the present invention as illustrated in Figure 9.

The Examiner, relying on PCT Rules 13.1 and 13.2 rather than U.S. statutory authority, requires that Applicants elect one of the foregoing Species I-V for immediate prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable.

In compliance with the election requirement, Applicants provisionally elect Species I (*i.e.*, Fig. 1) and the claims readable thereon for immediate examination. Applicants identify claims 1-7 and 11-22 as being readable on the elected Species I. This provisional election is made with the understanding that the features depicted in Figs. 2-5 and 10-14 are encompassed by the election.

Also, this election is made with traverse. For the reasons set forth below, Applicants respectfully submit that all of the claims are properly set forth in the present application as filed. Accordingly, Applicants request reconsideration and withdrawal of the election requirement.

First, respectfully, all of the claims in the present application are related to embodiments of the same inventive subject matter. Fig. 6 (Species II), Fig. 7 (Species III), Fig. 8 (Species IV) and Fig. 9 (Species V) depict new and non-obvious alternative structural embodiments of the air-discharge/dryer elements of the air-suspension system according to Fig. 1 (Species I).

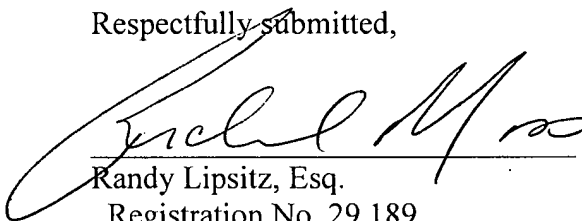
Second, as noted above, the Examiner applied PCT Rules 13.1 and 13.2 as the basis for the election requirement. However, this is entirely at odds with and, accordingly, completely undermined by the determination of the PCT Authorized Officer in the corresponding PCT/EP 03/09544 case who, applying the very same PCT standards, found unity of invention with regard to all of the PCT claims corresponding to the present application claims. A copy of the first sheet of the International Search Report in the corresponding PCT case together with an English translation of the sheet are attached – notably, the PCT Authorized Officer did not check box no. 3, thus, indicating that unity of invention is not lacking.

In view of the foregoing, reconsideration and withdrawal of the election requirement is respectfully requested and early and favorable examination on the merits is earnestly solicited.

The Examiner is invited to contact Applicants' undersigned attorneys at the telephone number set forth below if it will advance the prosecution of this case.

No fee is believed due with this Reply other than the \$120 fee associated with the Petition for a One Month Extension of Time submitted herewith. A check in the amount of \$120 is enclosed to cover the foregoing fee. Please charge any fee deficiency and credit any overpayment to Deposit Account No. 50-0540.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Randy Lipsitz", is written over a horizontal line.

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**VERTRAG ÜBER DIE INTERNATIONALE ZUSAMMENARBEIT  
AUF DEM GEBIET DES PATENTWESENS**

**PCT**

**INTERNATIONALER RECHERCHENBERICHT**

(Artikel 18 sowie Regeln 43 und 44 PCT)

Aktenzeichen des Anmelders oder Anwalts  WP 22/02 WO	<b>WEITERES VORGEHEN</b>  Internationales Anmeldedatum (Tag/Monat/Jahr)  28/08/2003	siehe Mitteilung über die Übermittlung des internationalen Recherchenberichts (Formblatt PCT/ISA/220) sowie, soweit zutreffend, nachstehender Punkt 5  (Frühestes) Prioritätsdatum (Tag/Monat/Jahr)  02/09/2002
Anmelder  WABCO GMBH & CO. OHG		

Dieser internationale Recherchenbericht wurde von der Internationalen Recherchenbehörde erstellt und wird dem Anmelder gemäß Artikel 18 übermittelt. Eine Kopie wird dem Internationalen Büro übermittelt.

Dieser internationale Recherchenbericht umfaßt insgesamt 4 Blätter.

☒ Darüber hinaus liegt ihm jeweils eine Kopie der in diesem Bericht genannten Unterlagen zum Stand der Technik bei.

**1. Grundlage des Berichts**

- a. Hinsichtlich der **Sprache** ist die internationale Recherche auf der Grundlage der internationalen Anmeldung in der Sprache durchgeführt worden, in der sie eingereicht wurde, sofern unter diesem Punkt nichts anderes angegeben ist.

☐ Die internationale Recherche ist auf der Grundlage einer bei der Behörde eingereichten Übersetzung der internationalen Anmeldung (Regel 23.1 b)) durchgeführt worden.

- b. Hinsichtlich der in der internationalen Anmeldung offenbarten **Nucleotid- und/oder Aminosäuresequenz** ist die internationale Recherche auf der Grundlage des Sequenzprotokolls durchgeführt worden, das

☐ in der internationalen Anmeldung in Schriftlicher Form enthalten ist.

☐ zusammen mit der internationalen Anmeldung in computerlesbarer Form eingereicht worden ist.

☐ bei der Behörde nachträglich in schriftlicher Form eingereicht worden ist.

☐ bei der Behörde nachträglich in computerlesbarer Form eingereicht worden ist.

☐ Die Erklärung, daß das nachträglich eingereichte schriftliche Sequenzprotokoll nicht über den Offenbarungsgehalt der internationalen Anmeldung im Anmeldezeitpunkt hinausgeht, wurde vorgelegt.

☐ Die Erklärung, daß die in computerlesbarer Form erfaßten Informationen dem schriftlichen Sequenzprotokoll entsprechen, wurde vorgelegt.

2. ☐ Bestimmte Ansprüche haben sich als nicht recherchierbar erwiesen (siehe Feld I).

3. ☐ Mangelnde Einheitlichkeit der Erfindung (siehe Feld II).

**4. Hinsichtlich der Bezeichnung der Erfindung**

☒ wird der vom Anmelder eingereichte Wortlaut genehmigt.

☐ wurde der Wortlaut von der Behörde wie folgt festgesetzt:

**5. Hinsichtlich der Zusammenfassung**

☒ wird der vom Anmelder eingereichte Wortlaut genehmigt.

☐ wurde der Wortlaut nach Regel 38.2b) in der in Feld III angegebenen Fassung von der Behörde festgesetzt. Der Anmelder kann der Behörde innerhalb eines Monats nach dem Datum der Absendung dieses internationalen Recherchenberichts eine Stellungnahme vorlegen.

6. Folgende Abbildung der **Zeichnungen** ist mit der Zusammenfassung zu veröffentlichen: Abb. Nr. 1

☐ wie vom Anmelder vorgeschlagen

☒ weil der Anmelder selbst keine Abbildung vorgeschlagen hat.

☐ weil diese Abbildung die Erfindung besser kennzeichnet.

☐ keine der Abb.

# PATENT COOPERATION TREATY

## PCT

### INTERNATIONAL SEARCH REPORT

(PCT Article 18 and Rules 43 and 44)

Applicant's or agent's file reference  WP 22/02 WO	<b>FOR FURTHER ACTION</b>	see Notification of Transmittal of the International Search Report (Form PCT/ISA/220) as well as, where applicable, item 5 below
International application No.  PCT/EP 03/09544	International filing date (day/month/year)  28 August 2003	(Earliest) Priority Date (day/month/year)  02 September 2002
Applicant  WABCO GMBH & CO. OHG		

This international search report has been prepared by this International Searching Authority and is transmitted to the applicant according to Article 18. A copy is being transmitted to the International Bureau.

This international search report consists of a total of 4 sheets.

☒ It is also accompanied by a copy of each prior art document cited in this report.

#### 1. Basis of the report

a. With regard to the **language**, the international search was carried out on the basis of the international application in the language in which it was filed, unless otherwise indicated in this section.

☐ The international search was carried out on the basis of a translation of the international application filed with the authority (Rule 23.1(b)).

b. With regard to the **nucleotide and/or amino acid sequence** disclosed in the international application, the international search was carried out on the basis of the sequence protocol that

☐ is contained in written form in the international application,

☐ was filed in computer-readable form together with the international application,

☐ was subsequently filed with the authority in written form,

☐ was subsequently filed with the authority in computer-readable form.

☐ The declaration that the subsequently filed written sequence protocol does not go beyond the content of the disclosure of the international application as of the application date has been submitted.

☐ The declaration that the information recorded in computer-readable form corresponds to the written sequence protocol has been submitted.

2. ☐ **Certain claims were found unsearchable** (see Box No. I).

3. ☐ **Unity of invention is lacking** (see Box No. II).

4. With regard to the **title of the invention**

☒ the text is approved as submitted by the applicant.

☐ the text has been established by this Authority to read as follows:

5. With regard to the **abstract**,

☒ the text is approved as submitted by the applicant.

☐ the text has been established, according to Rule 38.2b), by this Authority as it appears in Box No. III. The applicant may, within one month from the date of mailing of this international search report, submit comments to this Authority.

6. The following figure of the **drawings** is to be published with the abstract: Figure No. 1

☐ as suggested by the applicant

☐ none of the figures

☒ because the applicant failed to suggest a figure.

☐ because this figure better characterizes the invention.